

VERMONT
COMMISSION
ON
NATIVE AMERICAN
AFFAIRS



03/16/2015



VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS
REVIEW AND DECISION OF SECOND FILING BY APPLICANT:
Koasek Traditional Band of the Sovereign Abenaki Nation

The following review and decision is based upon the findings of the Vermont Commission of Native American Affairs and the expert review of a panel of three scholars: Angela Labrador, John Moody and Kathleen Bragdon.

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PREFACE:

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This is a response to the second filing for recognition by the applicant. Following denial of recognition by the commission 3-29-13, the applicant filed additional information pursuant to 1 V.S.A. sec. 853(f). A new scholar's panel was convened, and reports written and submitted to the commission. A public hearing was held on November 12th 2014 . The commission reviewed all information and voted on 1/14/2015. This document represents the final decision of the commission.

The following document fulfills the commission's statutory obligations under 1 V.S.A. sec. 852:

§852(c) The commission shall:

2. Provide technical assistance and an explanation of the process to applicants for state recognition.
3. Compile and maintain a list of professionals and scholars for appointment to a review panel.
4. Appoint a three-member panel acceptable to both the applicant and the commission to review supporting documentation of an application for recognition and advise the commission of its accuracy and relevance.
5. Review each application, supporting documentation and findings of the review panel, and make recommendations for or against state recognitions to the legislative committees.

The commission wishes to make clear that the decision refers to the recognition of a tribal government and should not be construed as a decision on the ethnic nature of the people of the State of Vermont.

DECISION:

In open meeting on 01/14/2015 the Vermont Commission on Native American Affairs came to the unanimous conclusion that the applicant Koasek Traditional Band of the Sovereign Abenaki Nation has not met the criteria outlined in S.222 (Act 107).

Therefore, in accordance with the procedures set forth in Act 107, the commission does not recommend to the General Assembly and the Honorable Governor of the State of Vermont to grant state recognition to the applicant, the Koasek Traditional Band of the Sovereign Abenaki Nation.

Because this was not the applicant's first submittal, the commission considered only the four criteria that the applicant had not satisfied in its initial submittal. The following is a point by point review of each of the four criteria set forth in Act 107 that were not met by the applicant in the first filing.

I. Criterion One: §853(c)(1): A majority of the applicant's members live in a specific geographic region within Vermont.

A. The commission's opinion of the applicant's original submittal was as follows:

This criterion was of major concern to the commission. The Commission understood the term majority to mean greater than 50% of the population. The applicant was not able to demonstrate to the commission's satisfaction the majority of the group's members live in a *specific area* in Vermont. This concern was expressed to the applicant in both written and verbal communication prior to the final vote. The applicant responded in an addendum to the original application with the statement, '*The Koasek Traditional Band of the Sovereign Abenaki Nation is against any restrictions of territory except for the historic and traditional lands that we occupied for a thousand plus years and live on today.*' While the commission and scholars concur that the applicant has a right to deny European and subsequent American imposed boundaries, the applicant, when applying for state recognition from the State of Vermont and the Commission must satisfy the criterion of §853(c) (1).

B. The commission's response to the current submittal is as follows:

This criterion is still of major concern to the commission. The applicant was still not able to demonstrate to the commission's satisfaction the majority of the group's members live in a *specific area* in Vermont. While the applicant produced a new list of members for the review of the commission, our initial evaluation of the tribal roles was that the applicant still did not meet the criteria that 50% of the tribe's members live in a specific geographic area. Scholar K. Bragdon shared the concern in her report, stating, 'Members living within a geographic area is not supported' by the data present.' In response to K. Bragdon's review, the applicant did make a statement has that it 'is against any restrictions of territory' relating to European boundaries. The commission finds this statement irrelevant as the commission is working within the laws of the State of Vermont, this criterion must be met. Additionally it is clear from reading the application that the applicant does not disregard all European boundaries and authority as they are applying for VT state recognition and solicited a NH representative for recognition (page 200

of submission), One sentence states “many New Hampshire citizens including our Sub-chief Paul Bunnell...”

Scholar A. Labrador went through an extensive process of defining a homeland for the applicant based on river drainages. Labrador’s circumscribed homeland was not recognized nor adopted by the applicant. Finally, Scholar J. Moody in his review used his extensive personal knowledge of the band to account for individual movements to and from the homeland, arguing that the criterion is met, though information to reach that conclusion is not included in the application.

In subsequent responses to the scholars’ reviews, the applicant stated that their homeland was Orange and Windsor Counties, yet they base their response to this requirement on the entire state of Vermont. In the response to scholar K. Bragdon the applicant stated, ‘Our tribe has 274 members. Out of that number, 163 reside in Vermont. Vermont residents comprise 59.48905% out of our total membership.’ However, in the commission’s view, ‘Vermont’ is not a *specific geographic region within Vermont*, as stated in statute. Thus the number of 59.48905% is irrelevant. The applicant’s response to K. Bragdon continues ‘Of the 163 Vermont residents, 110 members reside in Orange and Windsor Counties. This number exceeds the Vermont criteria for our designated geographical with a total of 67.484662% of the Vermont residents.’ The statute clearly relates to the entirety of the tribal roles, not merely the portion that live in Vermont. Therefore, the 67.484662% number is irrelevant. In the commission’s view, the fact that only 110 members out of 274 total (or 40.145985%) live within Orange and Windsor Counties means that the applicant has not shown that a majority of the applicant’s members live in a specific geographic region within Vermont.

THE VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS CONCLUDES THAT THE APPLICANT HAS NOT SUCCESSFULLY MET THIS CRITERION.

II. Criterion Two: §853(c)(2): A substantial number of the applicant’s members are related to each other by kinship and trace their ancestry to a kinship group through genealogy or other methods. Genealogical documents shall be limited to those that show descendency from identified Vermont or regional Native people.

A. The commission’s opinion of the applicant’s original submittal was as follows:

Criterion two is also of concern to the commission. According to state statute, genealogical documents are not in the purview of the commission, and are to be reviewed only by the panel of experts. However, upon communication with the expert panel, the commission learned that while family trees were included in the application and subsequent addendum, no supporting documentation (birth, death and marriage certificates) were included. The criterion clearly indicates that documentation must be provided.

B. The commission’s response to the current submittal is as follows:

Criterion Two directly relates to genealogy. State statute mandates that any documents relating to genealogy submitted in support of the application shall be available only to the three-member review panel. 1 V.S.A. Sec. 853(d)(8). The scholars panel that reviewed the genealogical data were split on this criterion. Two of the three scholars accept this information seemingly without

reservation. One scholar, K. Bragdon, stated it was not clear to her from documents provided, what historical baseline for band membership was being used: petitions, census, tracing membership forward. The commission discussed this criterion and came to a unanimous decision that the information provided was sufficient.

THE VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS CONCLUDES THAT THE APPLICANT HAS SUCCESSFULLY MET THIS CRITERION.

III. Criterion Four: §853(c)(4) The applicant has historically maintained an organized structure that exerts influence and authority over its members that is supported by documentation of the structure, membership criteria, the names and residential address of its members, and the methods by which the applicants conducts its affairs.

A. The commission's opinion of the applicant's original submittal was as follows:

The commission's concerns with criterion four echoes the concerns with criterion two. The application does not include documentation of a historically maintained organized structure. This concern was brought to the applicant's attention and in the addendum a list of historical chiefs was added, yet no supporting documentation was offered. While the application does include tribal roles and a constitution delineating membership criteria and the procedures by which the applicant group conducts business currently, historical depth is lacking.

B. The commission's response to the current submittal is as follows:

The second filing of data answered the commission's reservations of criterion four in spades. The documents filed included 178 pages of additional documentation that sufficiently showed the applicant has historically maintained an organized structure that exerts influence and authority over its members.

THE VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS CONCLUDES THAT THE APPLICANT HAS SUCCESSFULLY MET THIS CRITERION.

IV. Criterion Nine: §853(c)(9)(A): Submission of letters, statements, and documents from: municipal, state and or federal authorities that document the applicant's history or tribe related business and activities.

A. The commission's opinion of the applicant's original submittal was as follows:

While official documents were provided, the commission asserts the documents do not demonstrate the applicants' history or delineate tribal business. The commission asserts the applicant has not met criterion §853(c)(9)(A).

B. The commission's response to the current submittal is as follows:

The commission feels that the refiled echoes that of criterion four. The documents filed provided included sufficient documentation.

THE VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS CONCLUDES THAT THE APPLICANT HAS SUCCESSFULLY MET THIS CRITERION.

V. Criterion Nine B: §853(c)(9)(B): Submission of letters, statements, and documents from: tribes in and outside Vermont that attest to the Native American Indian heritage of the applicant.

A. The commission's opinion of the applicant's original submittal was as follows:

The applicant provided a letter of support from a Canadian band. The official status of this band was not determined. Due to this lack of determination combined with the absence of letters from recognized bands within Vermont, the commission asserts the applicant has not met criterion §853(c)(9)(B).

B. The commission's response to the current submittal is as follows:

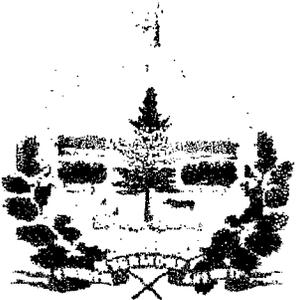
The second filing of documentation by the applicant included additional letters of support. The most notable of these was the letter of support from the St. Francis/Sokoki Band of the Sovereign Republic of the Abenaki Nation of Missisquoi. When the new Missisquoi letter is added to the treaty of friendship with the Elnu, it can be inferred two of the four bands support the application. The commission has concluded this is sufficient information to meet criterion 9(B).

THE VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS CONCLUDES THAT THE APPLICANT HAS SUCCESSFULLY MET THIS CRITERION.

VERMONT
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March 16, 2012



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Representative Head:

Please find enclosed the Vermont Commission on Native American Affairs Review and Decision on Recognition Application of Koasek Traditional Band of the Sovereign Abenaki Nation. If you have any questions please refer them to Ms. Lucy Cannon-Neel, Commission Chairperson.

Respectfully Submitted,

A handwritten signature in black ink that reads 'Andrew R. Beaupré'.

Andrew R. Beaupré MA, RPA
Commission Member